

REMARKS

Claims 1-3 and 8-9 are pending in the case. Claims 4-7 are cancelled with this response. Claims 1-2 and 8-9 are rejected as obvious in view of Keller and Wong. Claim 3 is rejected as obvious in view of Keller and Wong in further view of Shine.

Claims 1-3 are amended to add a "non-digestible fat" limitation to the lipid-based filling claim element. Support for the amendment to Claims 1-3 is found in the Specification at page 3, line 15 – page 5, line 23. Claim 9 is amended to delete the dependency from cancelled claims.

No new matter is added.

OBVIOUSNESS REJECTIONS

A. Rejection of Claims 1-2 and 8-9 as Obvious in View of Keller and Wong

Claims 1-2

Claims 1-2 require, *inter alia*, a lipid-based filling having a viscosity of less than about 10,000 cP before baking, wherein said lipid-based filling comprises non-digestible fat. To establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP §2143.03. Thus, to establish a *prima facie* case of obviousness in the present case, the Examiner must show that the cited art teaches or suggests, *inter alia*, the recited lipid-based filling having a viscosity of less than about 10,000 cP before baking that comprises non-digestible fat.

Because the Examiner has not pointed to such a filling comprising non-digestible fat, the Examiner's burden of establishing obviousness has not been met and the obviousness rejection should be withdrawn.

Claims 8-9

Claims 8-9 require, *inter alia*, baking snack dough as a continuous filled tube. To establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP §2143.03. Thus, to establish a *prima facie* case of obviousness in the present case, the Examiner must show that the cited art teaches or suggests, *inter alia*, baking snack dough as a continuous filled tube.

Because the Examiner has not pointed to a teaching of baking snack dough as a continuous filled tube, the Examiner's burden of establishing obviousness has not been met and the obviousness rejection should be withdrawn.

B. Rejection of Claim 3 as Obvious in View of Keller and Wong in further View of Shine

Claim 3 requires, *inter alia*, a lipid-based filling having a viscosity of less than about 10,000 cP before baking, wherein said lipid-based filling comprises non-digestible fat. To establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP §2143.03. Thus, to establish a *prima facie* case of obviousness in the present case, the Examiner must show that the cited art teaches or suggests, *inter alia*, the recited lipid-based filling having a viscosity of less than about 10,000 cP before baking that comprises non-digestible fat.

Because the Examiner has not pointed to such a filling comprising non-digestible fat, the Examiner's burden of establishing obviousness has not been met and the obviousness rejection should be withdrawn.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the rejections and allow all pending claims as patentable.

Respectfully submitted,

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